

DETAILED ACTION

1. Claims 1-10 are pending in this application.

Information Disclosure Statement

2. Applicant's Information Disclosure Statement, filed on 09/06/2005 has been acknowledged. Please refer to Applicant's copies of the 1449 submitted herewith.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-7 and 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

a. In claim 5, the claim does not end in a period. It is recommended that applicants add a period at the end of the claim and also add the term "and" before the last species.

b. Regarding claim 6, the phrase "such as for example" or "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

c. In claim 6, the phrase "boronic acid derivative" is indefinite. What is covered and what is not? It is recommended that applicants recite the derivatives or delete "derivative" from the phrase to overcome this rejection.

d. In claim 6, "suitable for the substitution of the halogen atom" is not clear. What is suitable and what is not? How can one know if a substitution is suitable or not?

e. In claim 7, the phrase "the proper boronic acid" is not clear. What is the proper boronic acid and what is not proper boronic acid?

f. In claims 9-10, the phrase "for the treatment of allergic and inflammatory diseases" or "for the treatment of respiratory diseases" is not clear. The claims start as a composition claim, but end up as a method of use claims. Literally, it simply states an intention, which is a mental state, not a patentable limitation. Hence the claim is improperly dependent, as it does not further limit the claim on which it depends. That is how the claim has been examined. Alternatively, this may be intended as a method of use claim, in which case, the claim would be garbled, as it begins as a composition claim, and ends as a method claim. Moreover, as it does not contain any actual step, it would not be a proper process claim. The intended scope of the claims is thus unclear.

g. Claim 9 is also rejected because there is no period after the claim.

Allowable Subject Matter

4. Claims 1-4 and 8 are allowed.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kahsay Habte, Ph. D. whose telephone number is (571) 272-0667. The examiner can normally be reached on M-F (9.00AM- 5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached at (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

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/Kahsay T. Habte/
Primary Examiner, Art Unit 1624

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